IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No. 51 of 2003.

Date of decision 14.11.2007.

Kusam Lata and others **….Petitioners.**

Versus

Madan Mohan Chaudhary & another **….Respondents.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1] *No.*

For the Petitioners: **Shri Raman Sethi, Advocate.**

For the Respondents: **Shri P.P. Chauhan, Advocate.**

Dev Darshan Sud, J. (Oral).

This revision petition has been filed by the landlord against the judgment of the learned appellate authority confirming the judgment and order of the learned Rent Controller dismissing the eviction petition preferred by the landlord.

An application under Order 41 Rule 27 of the Code of Civil Procedure had been filed by the petitioner herein before the appellate authority

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[1] *Whether reports of Local Papers may be allowed to see the judgment? Yes.*

praying that he may be allowed to prove the original power of attorney as photo copy had already been placed on record before the Rent Controller. The prayer made was that the Rent Controller had dismissed the eviction petition holding that the production of the photo copy of the power of attorney would not constitute proof of authority in the absence of original being produced on record. The appeal was also dismissed by the appellate authority alongwith the application under Order 41 Rule 27 of the Code of Civil Procedure for permission to lead additional evidence.

I have heard the learned counsel for the parties and gone through the record of the case.

A perusal of the judgment of the appellate Court would show that it is extremely terse and does not satisfy the mandatory requirements of law, considering each and every point raised in the grounds of appeal and urged for consideration. Merely observing that the counsel had not put forth any argument which could persuade the Court to interfere on the ground urged is not sufficient, but is an arbitrary manner of dealing with the appeal and the points raised for judicial

determination. Terse judgmental opinions cannot be a substitute for a reasoned decision which is the mandate of law, more so when in revisional jurisdiction, this Court is inter alia confined to consideration of legality of the judgment. For exercise of jurisdiction; the reasons for the decision are to be tested on the corner stone of the law applicable. A three line order can hardly be described as a satisfactory way in dealing with the appeal.

On the dismissal of the application for leading additional evidence, the appellate authority has totally ignored the settled law under Order 41 Rule 27 of the Code of Civil Procedure. A Constitution Bench of the Hon'ble Supreme Court in K. Venkataramiah v. A. Seetharama Reddy AIR 1963 SC 1526 has already pronounced on the parameters of exercise of jurisdiction by a Court while dealing with application for permission for leading additional evidence. This judgment has been followed by this court in Badi Ram v. M/S R.S.Company AIR 2002 HP 150. The reasons given by the learned appellate authority in dismissing the application are not in consonance with the law as

laid down in the two judgments referred to hereinbefore where the principles have been enumerated exhaustively and in detail. Merely observing that the appellant had deliberately not produced original power of attorney was a sufficient ground to dismiss the application, is not enough.

In the facts and circumstances of the case, the judgment passed by the appellate authority rejecting the application of the petitioner herein for leading evidence is quashed and set aside. The judgment passed in the main appeal is also quashed and set aside and the matter is remanded to the Appellate Authority, Kangra at Dharamsala for decision afresh in accordance with law. The Appellate Authority is directed to readmit the matter and to proceed to decide it in accordance with law. The prayer of the petitioner for leading additional evidence having been allowed, an opportunity will be given to the respondent to lead evidence in rebuttal. Parties are directed to appear before the learned Appellate Authority, Kangra at Dharamsala on 10.12.2007. The Appellate Authority will proceed with the matter

with expedition. The record of the case be sent to the appellate authority immediately. There shall be no order as to costs.

November 14, 2007(PC). (Dev Darshan Sud), J.